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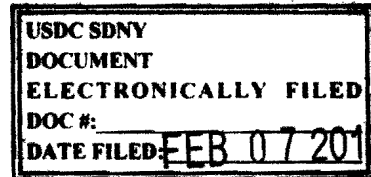
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BY E-MAIL

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February 3, 2012

Honorable Katherine B. Forrest
United States Courthouse
500 Pearl Street
New York, New York 10007-1312



Re: Illinois National Insurance Company v. Tutor Perini Corporation
Index No. 11-cv-00431

Dear Judge Forrest:

We represent Defendant Tutor Perini Corporation ("Tutor Perini") in the above referenced matter. Pursuant to your Honor's clerk's direction to submit a letter in lieu of a motion, as set forth more fully below this serves as the parties' joint request for the Court's leave: (1) for Tutor Perini to file an amended answer and counterclaims ("Counterclaims") against Plaintiff Illinois National Insurance Company and related companies (collectively "Chartis")¹ pursuant to Federal Rules of Civil Procedure 15(a)(2); (2) for Tutor Perini to file a third party complaint ("Third Party Complaint") against Certain Underwriters at Lloyd's, London ("Lloyd's") pursuant to Federal Rules of Civil Procedure, Rule 14(a)(1); and (3) to extend the discovery cut-off from February 28, 2012 to July 28, 2012. Counsel for Chartis and Lloyd's have reviewed this letter and join in the relief requested herein.

This action concerns a dispute between the parties regarding insurance coverage for Tutor Perini in connection with the failure of a façade ("Façade Failure") on a building constructed by Tutor Perini for the Metropolitan Transportation Authority (the "MTA"). Chartis filed this action on January 21, 2011 (the "SDNY Action") seeking a declaration of no coverage for the Façade Failure under certain the insurance policies which insured Tutor Perini. The SDNY Action does not include Lloyd's as a party.

¹ As used herein, "Chartis" refers to Illinois National Insurance Company, The Insurance Company of the State of Pennsylvania and National Union Fire Insurance Company of Pittsburgh, PA.

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On June 3, 2011, Tutor Perini filed a competing action in Massachusetts state court against Chartis and Lloyd's seeking coverage for the Façade Failure under the same policies at issue in the SDNY Action as well as additional policies issued by both Chartis and Lloyd's (the "Massachusetts Action"). On June 21, 2011 at a pre-motion hearing Judge Castel in this action denied Tutor Perini's request for leave to file a motion to dismiss based on *forum non conveniens* and also ordered that the parties should enter into a stipulation that any discovery conducted in this action could be used in the Massachusetts Action. On October 21, 2011 Tutor Perini filed its answer in the SDNY Action.²

On December 19, 2011, following briefing in the Massachusetts Action by Tutor Perini and Chartis on Chartis' Motion to Dismiss or Stay based on *forum non conveniens*, the court in the Massachusetts Action granted a conditional dismissal of the Massachusetts Action dependent on: (1) Chartis and Lloyd's "not challenging the addition of Lloyd's as a defendant to the SDNY Action" and this Court allowing "Tutor Perini to join Lloyd's as a party"; and (2) Chartis' waiver of any defenses based on jurisdiction or statute of limitations. In this regard, Chartis agrees to the filing of the Counterclaims in this action so that Tutor Perini can assert claims against Chartis that are at issue in the Massachusetts Action and has further agreed to waive any defenses based on personal jurisdiction or statute of limitations. Chartis and Lloyd's have further agreed to the filing of the Third Party Complaint against Lloyd's so that Tutor Perini can assert all of the claims against Lloyd's that are at issue in the Massachusetts Action. Accordingly, the parties respectfully request the Court's leave for Tutor Perini to file the Counterclaims and the Third Party Complaint, and thereafter the competing Massachusetts Action will be dismissed and the parties' entire dispute will be adjudicated in this Court. Tutor Perini is prepared to file its Counterclaims and Third Party Complaint within seven days of this Court granting the parties' request.

In the event that the Court permits the filing of the Counterclaims and Third Party Complaint, the parties also request that the current fact discovery cut-off date of February 28, 2012 be extended to July 28, 2012. While Tutor Perini and Chartis have been diligent in advancing discovery in this action and have propounded and responded to written discovery and have produced numerous documents, additional discovery will be necessary with respect to Tutor Perini's counterclaims (which involve policies not previously at issue in this action) and with respect to the Third Party Complaint against Lloyd's. Accordingly, the parties respectfully request that the discovery cut-off be extended to July 28, 2012 so as to allow the parties to conduct this additional discovery.

² By leave of Court, Tutor Perini's answer was filed after the Court's decision on a motion by Tutor Perini to strike or dismiss an amended complaint filed by Chartis adding the MTA as a party to this action. The Court granted Tutor Perini's motion.

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Please contact me if you have any questions.

Respectfully Submitted,



Finley Harckham

cc: Chartis' Counsel

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The Court no longer requires pre-motion letters. However, the relief requested herein with respect to (i) filing an amended answer; counterclaims and (ii) filing a third party complaint is GRANTED.

Discovery cutoff extended to June 1, 2012.

The status conference on March 14, 2012 is ADJOURNED until June 8, 2012 at 10:30 a.m.

Feb. 7, 2012

SO ORDERED:



HON. KATHERINE B. FORREST
UNITED STATES DISTRICT JUDGE